

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:11-CT-3050-BO

DUNCAN G. AINSWORTH,
Plaintiff,

v.

WLVIN W. KELLER, et al.,
Defendants.

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ORDER

Plaintiff filed this action pursuant to 42 U.S.C. § 1983. The matter is before the court on plaintiff's motion for voluntary dismissal (DE # 18). An action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R.Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the plaintiff's request except upon an order of the court. See Fed. R.Civ. P. 41(a)(2). At this point, defendants have not been served, nor have they filed any responsive pleadings. Accordingly, plaintiff's motion for voluntary dismissal pursuant to Rule 41(a)(1) is GRANTED (D.E. # 18), and the action is DISMISSED without prejudice. Having so determined all pending motions are likewise DENIED (D.E. # 6, 8, and 10). Additionally, the court finds it appropriate to relieve plaintiff from having to pay the filing fee in this matter. Accordingly, this court's March 10, 2011 order is vacated.

SO ORDERED, this the 31 day of October 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE